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Cooperation between the United Nations and the Asian-African Legal Consultative Committee

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Report of the Secretary-General**

Introduction

1. The present report is submitted pursuant to paragraph 5 of General Assembly resolution 53/14 of 10 November 1998, entitled "Cooperation between the United Nations and the Asian-African Legal Consultative Committee".

2. The General Assembly, by its resolution 35/2 of 13 October 1980, had invited the Asian-African Legal Consultative Committee (AALCC) to participate in its sessions and its work in the capacity of an observer. Subsequently, AALCC established two permanent observer missions to the United Nations, in New York and Vienna.

3. On the occasion of the commemoration of the twenty-fifth anniversary of AALCC, the General Assembly, in its resolution 36/38 of 18 November 1981, had requested the Secretary-General of the United Nations to carry out consultations with the Secretary-General of AALCC with a view to further strengthening and widening the scope of cooperation between the two organizations. The item had been considered by the Assembly annually until its forty-first session, and thereafter biannually. It was last considered at the fifty-third session.

4. At that session, in its resolution 53/14, the General Assembly had noted with satisfaction the continuing efforts of AALCC, through its programmes and initiatives, towards strengthening the role of the United Nations and its various organs, including the International Court of Justice. It had also noted with satisfaction the commendable progress achieved towards enhancing cooperation between the United Nations and AALCC in wider areas. Moreover, the Assembly had noted with appreciation the decision of AALCC to participate actively in the programmes of the United Nations Decade of International Law and the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court. The Assembly had decided to include the item entitled "Cooperation between the United Nations and the Asian-African Legal Consultative Committee" in the provisional agenda of its fifty-fifth session.

A. Cooperative framework

5. Pursuant to the cooperation framework agreed upon by the two organizations, consultations have

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routinely been conducted on matters of common interest, in particular regarding representation at meetings and sessions, exchange of documentation and information, and the identification of areas where the supportive role of AALCC might be most productive. During the period under review, comprising the fifty-third and fifty-fourth sessions of the General Assembly, a meeting was held between the Secretary-General of AALCC and the Legal Counsel of the United Nations. On the occasion of the thirty-eighth (Accra, 1999) and thirty-ninth (Cairo, 2000) sessions of the Committee, the Secretary-General of the United Nations sent messages to those meetings highlighting matters of mutual concern for both organizations.

6. AALCC continues to orient its work programmes so as to accord priority to matters of interest to the United Nations and to initiate action with a view to strengthening the role of the United Nations. The areas of cooperation apart from the field of international law, now include matters relating to economic, environmental and humanitarian law and peaceful settlement of disputes.

B. Representation at meetings and conferences

7. During the period under review, AALCC was represented at the fifty-third and fifty-fourth sessions of the General Assembly.

8. Other meetings at which AALCC was represented include the United Nations Conference on Trade and Development (UNCTAD) partners for Development Conference, 1998; the fiftieth (1998) and fifty-first (1999) sessions of the International Law Commission; the thirty-second session of the United Nations Commission on International Trade Law (UNCITRAL), 1999; the second session of the Preparatory Committee for the International Criminal Court, 1999; the centennial meeting of the first International Peace Conference, held at The Hague and St. Petersburg, 1999; United Nations Environment Programme (UNEP) Regional Workshop for Policy-makers for Institutional Design of the Kyoto Protocol Cooperative Implementation Mechanisms, October 1999; AALCC Seminar on Human Rights in the United Nations System, New Delhi, 1999; international conference on Electronic Commerce and Intellectual Property organized by the World Intellectual Property Organization (WIPO), 1999; and the 1999 meeting of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime.

9. Representatives of various United Nations bodies participated in the thirty-eighth and the thirty-ninth sessions of AALCC. These included the representatives of the International Law Commission (ILC), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Population Fund (UNFPA), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and in 2000 UNEP. The Cairo session of the Consultative Committee held in 2000 was attended by Manuel Rama-Montaldo, Deputy Director of the Codification Division, Office of Legal Affairs of the United Nations Secretariat.

C. Strengthening the role of the United Nations and the United Nations Decade of International Law

10. In 1985, AALCC prepared a study on "Strengthening the Role of the United Nations through rationalization of its functional modalities with special reference to the General Assembly" (A/40/726 and Corr.1, annex), providing an overall assessment of the functioning of the United Nations. Subsequently a set of recommendations on the improvement of the functioning of the General Assembly was prepared by the AALCC secretariat (A/41/437, annex). Since then, the Consultative Committee has continued to follow up the implementation of the relevant resolutions relating to this subject.

11. Pursuant to General Assembly resolution 44/23 of 17 November 1989, in which the Assembly declared the period 1990-1999 as the United Nations Decade of International Law, AALCC prepared a paper identifying a number of issues involved and activities that might be undertaken during the Decade. At its twenty-ninth session, held at Beijing in March 1990, AALCC urged greater collaboration with the United Nations in that regard. A report outlining the role AALCC could play in the realization of the objectives of the Decade was submitted to the Secretary-General of the United Nations (see A/45/430, annex).

12. Thereafter, in pursuance of the relevant resolutions of the General Assembly, AALCC was invited to undertake activities in the implementation of the programme for the third term of the Decade and to

provide information in that respect to the Secretary-General for transmission to the General Assembly.

13. During the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court held in Rome from 15 to 17 June 1998, with a view to formulating AALCC's views on the subject, Deputy Secretary-General Wafik Zaher Kamil (now Secretary-General) convened two meetings which were attended by representatives of both AALCC member States and non-member States, who had before them, an overview of the draft statute of the Court prepared by the AALCC secretariat.

14. In pursuance of the its commitment to the establishment of the International Criminal Court, Mr. Kamil, representing AALCC, participated in the second session of the Preparatory Commission for the International Criminal Court, held in New York from 26 July to 13 August 1999.

15. A two-day meeting to consider three preliminary reports of the themes related to the centennial celebrations of the first International Peace Conference was held at New Delhi on 11 and 12 February 1999. AALCC was one of the six regional organizations chosen by the organizers of the centennial celebrations to discuss the preliminary reports on the three themes, which were: peaceful settlement of disputes: prospects for the twenty-first century; international humanitarian law and laws of war; and development of international law relating to disarmament and arms control since the first Hague Peace Conference held in 1899. The meeting was attended by representatives and experts from several AALCC member States and non-Member States; Hans Corell, Under-Secretary-General and Legal Counsel of the United Nations; the Executive Secretary of the Organizing Committee for the centennial conference; representatives of the International Committee of the Red Cross (ICRC) and the League of Arab States; and officials of the AALC secretariat.

16. In pursuance of the mandate of the thirty-eighth session of AALCC directing the secretariat to participate in the centennial of the first International Peace Conference, Mr. Mohammed Reza Dabiri, currently Secretary-General of AALCC, attended both the Hague and the St. Petersburg Conferences respectively.

D. Measures designed to further the work of the Sixth Committee of the General Assembly

17. In fulfilment of its function of rendering assistance to its member States and with a view to facilitating their active participation in the work of the General Assembly, AALCC prepares on a regular basis notes and comments on selected items on the agenda of the General Assembly, including those related to the work of ILC.

18. During the period under review, consultations were arranged during the General Assembly sessions between the representatives of AALCC member States and representatives of other interested States to provide opportunities for an exchange of views on matters of common interest. During the fifty-third session of the General Assembly, AALCC convened a meeting of legal advisers which was attended by most of the legal advisers participating in the work of that session. Speakers addressing the meeting in addition to representatives of AALCC member States included the President and Vice-President of the International Court of Justice, Registrar of the Court, the Chairman of the Sixth Committee, Chairman of ILC, the Chairman of the Committee of the Whole of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, the Chairman of the Preparatory Committee for the International Criminal Court, the Chairperson of the Working Group on the United Nations Decade of International Law, and the United-Secretary-General and Legal Counsel of the United Nations.

19. During the fifty-fourth session of the General Assembly, AALCC continued to follow closely the work of ILC and attached great significance to the items on its agenda, being of particular importance to its members. Bearing in mind the ILC's informal document entitled "Long-term programme of the ILC: feasibility study of the law of environment", a Special Meeting on the Effective Means of Implementation, Enforcement and Dispute Settlement in International Environmental Law was organized during the Accra (1999) session of the Consultative Committee. UNEP was represented at the meeting by Donald Kaniaru, Acting Director, Division of Environmental Policy Development and Law. The topic evinced keen interest among AALCC member States.

20. Taking into consideration the work of the Sixth Committee during the fifty-fourth session of the General Assembly, the topic "Jurisdictional immunities of States and their properties" was included in the agenda of AALCC at its thirty-ninth session, held at Cairo. At the session, Gerhard Hafner, Chairman of the working group of the Sixth Committee on the topic made a very comprehensive statement. The Consultative Committee expressed its appreciation of the work of the working group of the Sixth Committee on the topic and urged AALCC to participate actively in its work.

21. Also at the thirty-ninth session, the AALCC secretariat was requested to consider the feasibility of compiling national legislation, jurisprudence and practices of the member States on the item of jurisdictional immunities and to examine the feasibility of organizing a workshop on the subject with the participation of legal advisers and jurists from AALCC member States as well as other interested countries.

E. Measures to promote the ratification and implementation of the United Nations Convention on the Law of the Sea

22. AALCC continues to monitor closely the work and functioning of the International Tribunal for the Law of the Sea, and the International Seabed Authority and other related organs. At its thirty-eighth session the Committee urged members who had not yet ratified the United Nations Convention on the Law of the Sea to do so and stressed the need to adopt a common policy and strategy for the interim period before commercial exploitation of the deep seabed minerals becomes feasible. In that regard, AALCC member States were urged to take an "evolutionary approach", in particular with regard to the "initial function" of the International Seabed Authority so as to make the Authority useful to the international community in general and to developing countries in particular.

23. Member States were also urged to consider making written declarations with regard to their choice of the means for the settlement of disputes listed in article 287 of the Convention. More importantly, AALCC directed the secretariat to consider providing technical assistance to member States in their representation at the International Seabed Authority and to monitor the progress of work of the Authority on the formulation of the regulations for prospecting and exploration of polymetallic nodules in the international seabed area.

24. With the increasing number of maritime delimitation cases being brought before the International Court of Justice and the International Tribunal for the Law of the Sea, the study of the law of the sea remains a subject of special importance to AALCC member States.

F. International economic cooperation for development

25. During the period under review, AALCC continued to monitor the progress of work of UNCITRAL, within the established collaborative framework. The AALCC secretariat prepared notes and comments on the work of UNCITRAL at the thirtieth and thirty-first sessions of the Commission. At its thirty-eight session, the Consultative Committee, while expressing its appreciation for the substantial progress achieved in the Working Group on Assignments in Receivables Financing, expressed the hope that UNCTIRAL would be able to adopt the draft Convention on the subject by 2000. The Committee also urged its member States to consider adopting, ratifying or acceding to other texts prepared by UNCITRAL.

26. For consideration at the thirty-eight and thirty-ninth sessions, the AALCC secretariat prepared progress reports covering the legislative activities of the United Nations and other trade-related international organizations involved in the development of international law.

27. Under a scheme developed by AALCC for the settlement of disputes in economic and commercial transactions, regional arbitration centres have been established in Cairo, Kuala Lumpur, Tehran and Lagos to assist in administering national and international arbitration cases based on the UNCITRAL Arbitration Rules.

28. During the period under review, AALCC organized a two-day seminar on "Certain Aspects of the Functioning of the World Trade Organization (WTO) Dispute Settlement Mechanism and other Allied Matters" at New Delhi on 17 and 18 November 1998. In addition to representatives from member

States and observer States, the meeting was attended by senior Indian government officials and experts in the field and representatives of the European Commission, UNCTAD, WTO as well as the Director of the Kuala Lumpur Regional Arbitration Centre. AALCC continues to be actively engaged in monitoring the work and functioning of WTO, which is a subject of importance to the region.

29. Concomitant with the fortieth anniversary of the founding of WIPO, AALCC, in collaboration with WIPO, organized a seminar entitled "Issues Relating to the Implementation of Intellectual Property Rights" at New Delhi on 15 and 16 November 1999. Besides member States and observers, the meeting was attended by a number of experts, lawyers and other organizations. An AALCC publication entitled "Report of the Seminar relating to Certain Aspects of the Functioning of the WTO's Dispute Settlement Mechanisms and Other Allied Matters" was released at the meeting.

30. In conjunction with its thirty-ninth session, AALCC organized a one-day special meeting on "Electronic Commerce: Legal Issues and its Impact on Developing Countries", with financial and technical assistance from WIPO. The meeting was attended by a number of experts in the field from member States as well as representatives from WIPO, WTO and other international bodies. The substantive discussions focused on important issues relating to legal and financial aspects of e-commerce, intellectual property rights, contractual obligations, standards of regulations and institutional dispute settlement involving mediation and arbitration.

G. Question of refugees

31. AALCC has been actively engaged in the study of refugee law and has been working in close cooperation with UNHCR for that purpose. In December 1996, UNHCR and AALCC organized a seminar in Manila to commemorate the thirtieth anniversary of the Principles on the Status and Treatment of Refugees, adopted by AALCC in Bangkok in 1966. The seminar had recommended that the text of the Bangkok principles and the two addenda thereto of 1970 and 1987 should be revised and updated in the light of the experience and developments over the past 30 years. It was followed by a meeting of experts held at Tehran in March 1998. The recommendations of the meeting of experts were subsequently submitted for consideration at the New Delhi, Accra and Cairo sessions.

32. At the Cairo session, AALCC adopted a resolution requesting the Secretary-General to convene an open-ended working group of interested member States within six months, with the technical assistance of UNHCR, to undertake a final review of the revised consolidated text of the Bangkok Principles. The Consultative Committee also urged member States to forward their comments on the draft revised consolidated text to the Secretary-General so that it might be submitted for adoption at the fortieth session of AALCC.

33. In pursuance of the above, officials of the AALCC secretariat and the representative of UNHCR met in May 2000 to discuss the modalities for organizing the proposed open-ended working group meeting. It was decided that a three-day meeting, with the technical and financial assistance of UNHCR, would be held in the second week of November 2000, probably in Cairo.

H. Other issues before the Consultative Committee

1. Environment and development

34. AALCC maintains a continuing interest in the analysis of international instruments adopted at the 1992 United Nations Conference on Environment and Development. Studies are being undertaken on the legal aspects of the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity and the Desertification Convention. During the period under review, the AALCC secretariat was directed to continue to monitor the progress in the implementation of Agenda 21 in general and the three Conventions in particular.

35. In 1999, the AALCC secretariat, in collaboration with UNEP, issued a publication entitled *Asian African Handbook on Environmental Law*, which contains a comprehensive collection of global and regional environmental instruments of relevance to the States of Asia and Africa.

2. Legal protection of migrant workers

36. The item entitled "Legal Protection of Migrant Workers" has been on the work programme of AALCC

since 1996. The Secretary-General has been requested to convene an open-ended working group for an in-depth consideration of issues related to migrant workers.

3. Extraterritorial application of national legislation: sanctions imposed against third parties

37. The item entitled "Extraterritorial application of national legislation: sanctions imposed against third parties" continues to be on the agenda of the Consultative Committee. During the period under review, the Secretariat was requested to continue to study the legal issues relating to the item and also to examine the issue of executive orders imposing sanctions against target States. Additionally, member States have been urged to provide relevant information and materials to the secretariat. The AALCC secretariat continues to study the legal aspects of this issue.

4. Deportation of Palestinians and other Israeli practices, among them the massive immigration and settlement of Jews in all Occupied Territories in violation of international law, particularly the Fourth Geneva Convention of 1949

38. The item entitled "Deportation of Palestinians and other Israeli practices, among them the massive immigration and settlement of Jews in all Occupied Territories in violation of international law, particularly the Fourth Geneva Convention of 1949", as in its current form following the amendments to the item adopted at the thirty-seventh and thirty-ninth sessions, has been on the agenda of AALCC since 1989. The secretariat paper submitted at the Cairo session called for implementation of the General Assembly and Security Council resolutions on the subject as well as other agreements signed between various parties to ensure the establishment of a just and lasting peace in the Middle East region.